

COUNTY OF SUFFOLK



Steve Bellone

SUFFOLK COUNTY EXECUTIVE

Natalie Wright
Acting Commissioner

Department of Economic Development and Planning
Division of Planning and Environment

STAFF REPORT

SECTIONS A14-14 THRU A14-24 OF THE SUFFOLK COUNTY ADMINISTRATIVE CODE

Applicant: Long Island Compost Corp.
Municipality: Town of Brookhaven
Location: n/w/c Horseblock Road (CR 16) and Old Town Road

Received: 12/16/2019
File Number: BR-19-14
T.P.I.N.: 0200 81500 0100 004005
Jurisdiction: Adjacent to County Road 16 - Horseblock Road

ZOING DATA

- Zoning Classification: LI - Light Industrial District
- Minimum Lot Area (Sq Ft): 80000
- Section 278: NA
- Obtained Variance: NA

SUPPLEMENTARY INFORMATION

- Within Agricultural District: No
- Shoreline Resource/Hazard Consideration: No
- Received Health Services Approval: No
- Property Considered for Affordable Housing Criteria: No
- Property has Historical/Archaeological Significance: No
- Property Previously Subdivided: No
- Property Previously Reviewed by Planning Commission: No
- SEQRA Information: Yes
- SEQRA Type: Unlisted
- Minority or Economic Distressed: No

SITE DESCRIPTION

- Present Land Use: vacant
- Existing Structures: none
- General Character of Site: gently sloping northwest to southeast
- Range of Elevation within Site: 39'-50'
- Cover: mature oak-pine woods
- Soil Types: Riverhead and Haven
- Range of Slopes (Soils Map): 0-3%
- Waterbodies of Wetlands: none

NATURE OF SUBDIVISION/ NATURE OF MUNICIPAL ZONING REQUEST

- Type: site plan/special permit
- Layout: storage yard
- Area of Tract (Acres): 40
- Yield Map: NA
 - No. of Lots: 1
- Open Space: 14 acres

ACCESS

- Roads: Public
- Driveways: private

ENVIRONMENTAL INFORMATION

- Stormwater Drainage
 - Design System: catch basins - leaching pools
 - Recharge Basins: No impoundment area
- Groundwater Management Zone: VI
- Water Supply: public
- Sanitary Sewers: none

PROPOSAL DETAILS

OVERVIEW

Applicants seek Town of Brookhaven Planning Board Site Plan approval for the construction of a proposed outdoor storage yard for leaf mulch and wood mulch. The subject property is a 40 acre vacant wooded site located on the northwest corner of Horseblock Road (CR 16) and Old Town Road in the hamlet of South Yaphank.

According to referral materials from the Town of Brookhaven to the Suffolk County Planning Commission, the site is to be used only as accessory to Long Island Compost's main facility, located approximately $\frac{3}{4}$ miles east along CR 16 (Horseblock Road), and specifically for the storage of leaf and wood mulch. Applicants put forth that the proposed outdoor storage yard is a necessity because leaf and wood mulch is received seasonally (at the main facility) but not necessarily marketed at the same time of the year and requires appropriate storage area. The extra location is necessary due to NYS DEC requirements and regulations regarding siting (at the main facility) of the pending American Organic Energy's anaerobic digestion project. Displaced storage area at the main facility is to be accommodated at this proposed new outdoor storage site. The referred material also indicate that "all wood and leaf mulch will originate from the main facility; no processing will be done on site except for receiving product from the main facility and loading it onto trucks to be removed when it's time to market the product; once wood and leaf mulch leave the accessory site it will be brought back to the main facility and prepared for distribution."

The applicants indicate in submitted papers to the Town of Brookhaven Planning Board that there will be only two employees assigned to this site. It is proposed that employees will be based at the main facility and will be at the site only during the delivery and pickup of mulch to ensure compliance with NYSDEC and Fire Prevention regulations.

The applicants indicate that there is no need for potable water or waste receptacles. A Porta-Potty for employees will be on site.

Referral materials to the Suffolk County Planning Commission from the Brookhaven Town Planning Board also indicates that mulch is to be stored on the ground in rows 30 feet wide at the base and no taller than 15 feet in height with 20 feet between piles.

“There is no need for soil stabilization to mitigate inclement weather. The facility is very flat and all vehicles (mobile material handling equipment consisting of front-end loaders and excavators) on the site will be capable of handling off-road conditions” according to the referred material.

The applicants papers referred to the Suffolk County Planning Commission from the Town of Brookhaven Planning Board also indicate that the site will never operate before sunrise or after sunset. “Because this facility will only be operating during daylight, there is no need for onsite lighting. There will be no signage. There is no need for any fencing” according to the applicant. The anticipated storage times for the mulch will vary based on market demands and time of year. Leaves are received in the fall (mainly November and December) and marketed throughout the year.

The Site Plan referred to the Suffolk County Planning Commission by the Town of Brookhaven Planning Board, prepared by Kempey Engineering (last revised 11/21/19), shows the associated parking requirement pursuant to the Town of Brookhaven Zoning Law as being 0 and no off street parking spaces are provided on site.

There are no structures proposed on site however, 65% of the site (which all is in woodland cover) or 26 acres are to be cleared for the proposed outdoor wood and leaf mulch storage yard. The total area of undisturbed woods equates to 35% of the property or 14 acres. The remaining “natural vegetation” is distributed along the southern and eastern property boundaries, providing a 244’ wide buffer area to Horseblock Road (CR 16) and a variable width natural buffer of no less than 100’ to Old Town Road. It is noted on plans referred to the Suffolk County Planning Commission that “no top soil will be removed from the site. The wood and leaf mulch will be placed on top of the top soil.”

Though the subject property for the outdoor storage of wood and leaf mulch has frontage along Horseblock Road (CR 16), the applicant proposes to take access via a created 60 foot wide access Right-Of-Way (ROW) westerly to Grucci Lane, a 100 foot wide public ROW. Within the access ROW a 26 foot wide access road, paved with asphalt millings will be constructed.

Referral materials to the Suffolk County Planning Commission from the Town of Brookhaven Planning Board indicate that the storm water runoff on the yard is to be directed to a 60 foot wide impoundment area along the eastern and southern property boundaries. Notations on the submitted plan, prepared by Kempey Engineering (last revised 11/21/19), indicate the impoundment area is to be planted with “grass or other similar type of ground cover.” Storm water runoff drainage for the proposed 60 foot wide access is to be via catch basins and leaching pools.

The subject property is zoned L Industrial 1 District (LI/Light Industry) which allows by Planning Board special permit, Outdoor Storage (Brookhaven Town Zoning Law section 85-564 K.) on minimum 120,000 SF lots (designated hydro-geologic sensitive zone). The zoning district also allows the Outdoor Storage use by Planning Board special permit for accessory uses (85-565 E).

The property is situated within a large corridor of industrial zoning and land uses. The proposed Long Island Compost outdoor storage facility is bound to the north and west by Starlight Properties an industrial subdivision. To the south the property abuts CR 16 (Horseblock Road) and further to the south, on the other side of the County ROW is the Town of Brookhaven Landfill. Abutting east and northeast of the subject property are vacant wooded lands formerly in ownership of Suffolk County now owned by New York Site Operations LLC.

Residential zoning exists northeast of the subject parcel developed as the Suffolk County Yaphank building complex and east of Yaphank Avenue are developments of private detached residential dwellings. West and south west of the proposed outdoor storage development site is a community of attached residential dwellings and an area to the south zoned residential containing parts of the Town land fill and residential dwellings.

The site is entirely wooded and contains no structures or heavily disturbed areas. The proposed project site is situated over Hydro-geologic Management Zone VI. The subject parcel is not located in a Special Groundwater Protection Area (SGPA). The site is not located in a Suffolk County Pine Barrens Zone. The development site is not located in a State designated Critical Environmental Area. The site has no fresh or tidal wetlands on site and is not located in proximity to any federal, state or local regulated wetlands. The subject property is characterized as containing a small amount of Prime Agricultural soils (Haven soil series; HaA) in the northern area of the parcel. The proposed leaf and wood mulch outdoor storage development parcel is situated within the 10 to 25 year groundwater travel time to the Carmans River system and is located within a Surface Water Priority Area Ranking Group 1 as shown in the draft Suffolk County Sub-watersheds Plan. It is interesting to note that the subject development parcel is within the Yaphank County Center proposed consolidated sewer district #16.

STAFF ANALYSIS

Wood mulch and leaf mulch are distinguishable from compost by the following characteristics:

As defined by the New York State Department of Environmental Conservation (NYS DEC), mulch is a created product derived from tree debris, yard trimmings, and other suitable woody material (leaves), which is intended for use on soil surfaces to prevent the growth of weeds and minimize erosion. Wood and leaf mulch differs from compost, which is a humus-like soil amendment used as a source of nutrients, and organic matter.

Compost is derived from the controlled aerobic decomposition of organic material such as yard trimmings, leaves, food scraps, bio-solids, manure, animal bedding, animal mortalities, etc.

The NYS DEC regulates the production and storage of mulch in order to reduce environmental impacts including dust, odor, adverse water quality, and fires. As of November 4, 2017, mulch processing and storage facilities are regulated under 6 NYCRR Part 361-4. The storage of leaf and wood mulch has been included in the solid waste management facility rules to reduce potential environmental impacts. Prior to construction and operation mulch processing and storage facilities must apply for a Part 361-4 permit or registration. Once operating, facilities are required to report annually to the department.

GENERAL MUNICIPAL LAW CONSIDERATIONS: New York State General Municipal Law, Section 239-l provides for the Suffolk County Planning Commission to consider inter-community issues. Included are such issues as compatibility of land uses, community character, public convenience and maintaining a satisfactory community environment.

The proposed wood and leaf mulch storage facility is to be located in an area of commercial and industrial uses. It is intended to be buffered from the adjacent roadways and does not appear to present issues related to compatibility of land use or community character.

LOCAL COMPREHENSIVE PLAN RECOMMENDATIONS: The Town of Brookhaven Comprehensive Plan (1996) designates this area for industrial development.

More recently, the Town of Brookhaven draft 2030 Comprehensive Plan continues to recommend Industrial use for the property.

Zoning for the subject property (L1) permits the use by Town Planning Board Special Permit pursuant to Brookhaven Town Zoning Law Section 85-564 K and 85-565 E. The proposed wood and leaf mulch outdoor storage facility does not contravene any dimensional criteria put in place for the special permit.

SUFFOLK COUNTY PLANNING COMMISSION GUIDELINE CONSIDERATIONS: The Suffolk County Planning Commission has identified six general Critical County Wide Priorities that include:

1. Environmental Protection
2. Energy efficiency
3. Economic Development, Equity and Sustainability
4. Housing Diversity
5. Transportation and
6. Public Safety

These policies are reflected in the Suffolk County Planning Commission Guidebook (unanimously adopted July 11, 2012). Below are items for consideration regarding the above policies:

As indicated previously a Porta-Potty for employees to utilize for sanitary waste will be on site. Review for a non-jurisdiction determination by the Suffolk County Department of Health Services is warranted for the proposed treatment of sanitary wastewater and the applicant should be directed to begin/continue dialogue with the Suffolk County Department of Health Services.

The development proposal for the Long Island Compost accessory outdoor storage of wood and leaf mulch will require the removal of 26 acres of mature oak-pine woodland. This would be in conformance with best management practice by the Suffolk County Planning Commission to remove no more than 65% of naturally occurring vegetation. It is noted on plans referred to the Suffolk County Planning Commission that “no top soil will be removed from the site. The wood and leaf mulch will be placed on top of the top soil.”

Referral materials to the Suffolk County Planning Commission from the Town of Brookhaven Planning Board indicate that the storm water runoff and drainage is to be directed overland to a 60 foot wide impoundment area along the eastern and southern property boundaries. Notations on the submitted plan, prepared by Kempey Engineering (last revised 11/21/19), indicate the impoundment area is to be planted with “grass or other similar type of ground cover.”

It is the belief of staff that additional considerations for storm water runoff are warranted in light of a 2013 New York State Department of Environmental Conservation report and a Suffolk County Department of Health Services report in 2016 concerning potential groundwater impacts from vegetative organic waste (VOW) processing and storage. The reports indicated elevated detections for metals and other constituents in groundwater down-gradient of the VOW facilities.

Based on research and field studies the VOW reports make several recommendations to control and assess potential groundwater and surface water impacts. It is noted that the subject proposed leaf and wood mulch outdoor storage development parcel is situated within the 10 to 25 year groundwater travel time to the Carmans River system and is located within a Surface Water Priority Area Ranking Group 1 as shown in the draft Suffolk County Sub-watersheds Plan. Several recommendations of the studies should be considered by the Town of Brookhaven:

- Stormwater runoff from areas up-gradient of mulch piles must be diverted to prevent pile contact
- Reduce stormwater contact with mulch using approaches such as using a breathable cover and/or strategically placing piles where the topography slopes away from the piles
- Mulch piles should be placed in a manner that minimizes ponding around the piles, minimizes the movement of precipitation through the piles, and provides a sufficient buffer to groundwater wells
- Stormwater produced on the site must be managed appropriately
- Reduce run-off infiltration to groundwater by placing mulch piles on impermeable surfaces or implementing a liner. Stormwater conveyance and detention facilities (e.g. basins) may be lined in order to prevent percolation of water laden with elevated dissolved organic carbon (DOC)
- Movement of organic matter from the surface of the pile and on the ground around the piles must be controlled
- Surface water and groundwater sampling programs should be put in place to assess the effectiveness of prevention measures

In light of the above, the applicant of the Long Island Compost Corp leaf and wood mulch outdoor storage area should be directed to begin/continue dialogue with the Suffolk County Department of Health Services and the New York State Department of Environmental Conservation pursuant to the NYS DEC Part 361-4 permit/registration process.

Regarding the overland storm water runoff that is to be directed to the 60 foot wide impoundment area along the eastern and southern property boundaries. The applicant should be encouraged to review the Suffolk County Planning Commission publication Managing Stormwater-Natural Vegetation and Green Methodologies and incorporate into the proposal, where practical, design elements contained therein.

Though the subject property for the outdoor storage of wood and leaf mulch has frontage along Horseblock Road (CR 16), the applicant proposes to take access via a created 60 foot wide access Right-Of-Way (ROW) westerly to Grucci Lane, a 100 foot wide public ROW. This is likely to be a consideration reflecting the intersection ROW of CR 16 and CR 99 and potential sight distance, weaving, and turn movement issues regarding the intersection layout and function. Access to the industrial subdivision collector street to the west (Grucci Lane) is considered, from a traffic planning best management practice, to be desirable. However, it is not clear that the applicant is in control or has secured an easement for the 60 foot right of way over three adjoining properties west of the project site. No ownership information was included in the referral materials from the Town of Brookhaven Planning Board on the three parcels and in-house information indicates the parcels are owned by a separate owner in the form of an LLC. Access rights over lands to the west should be secured by legal instruments acceptable to the Brookhaven Town Attorney before any final approval is granted to the proposed wood and leaf mulch outdoor storage facility by the Town of Brookhaven Planning Board.

No trip generation or traffic study information was provided in referral materials to the Suffolk County Planning Commission. The applicant should be encouraged to begin/continue dialogue with the Suffolk County Department of Public Works regarding impacts to the intersection of Grucci Lane with Horseblock Road (CR 16) resulting from employee motor vehicle and truck traffic coinciding with leaf and wood mulch storage and processing.

As noted above the Site Plan referred to the Suffolk County Planning Commission by the Town of Brookhaven Planning Board, prepared by Kempey Engineering (last revised 11/21/19), shows the associated parking requirement pursuant to the Town of Brookhaven Zoning Law as being 0 and no off street parking spaces are provided on site.

Suffolk County Planning Commission Staff research of Town of Brookhaven Zoning Law Section 85-852 reveals that "outdoor Storage" requires "1 [off street parking] space per 20,000 SF of land or part thereof". This would equate to approximately 87 spaces for the 40 acre wood and leaf mulch outdoor storage development site as part of the overall minimum parking and loading space calculations for the entire LI Compost operation involving this and the parent site. It is not clear how this requirement is being addressed at the Town level. Any part of the required parking that may be land-banked on site should take into consideration the Suffolk County Planning Commission publication Managing Stormwater-Natural Vegetation and Green Methodologies and incorporate into the parking land-banked area, where practical, design elements contained therein.

Little discussion is made in the application to the Town and referred to the Commission on energy efficiency, public safety or universal design. With respect to the applicants contention that "there is no need for onsite lighting. There will be no signage. There is no need for any fencing", the applicant should review the Planning Commission guidelines particularly related to public safety and incorporate into the proposal, where practical, design elements contained therein. Lighting and signage to prevent trespassing and illegal dumping may be warranted. In addition, the Site Plan referred by the Brookhaven Town Planning Board (prepared by Kempey Engineering; last revised 11/21/19) indicates "a solid tongue-and-grove fence with no gaps between slats [sic] or higher quality barrier...the required solid tongue-and-grove fence has been provided adjacent to the natural buffers." These conflicting statements should be clarified.

STAFF RECOMMENDATION

Approval of the Site Plan/Special Permit referral from the Town of Brookhaven Planning Board for the "Long Island Compost Corp." application to "develop outdoor storage areas for wood mulch and leaf mulch" with the following comments:

1. The applicant of the Long Island Compost Corp. leaf and wood mulch outdoor storage area should be directed to begin/continue dialogue with the Suffolk County Department of Health Services and the New York State Department of Environmental Conservation pursuant to the NYS DEC Part 361-4 permit/registration process. Prior to construction and operation mulch processing and storage facilities must apply for a Part 361-4 permit or registration. Once operating, facilities are required to report annually to the department.

2. It is noted that the subject proposed leaf and wood mulch outdoor storage development parcel is situated within the 10 to 25 year groundwater travel time to the Carmans River system and is located within a Surface Water Priority Area Ranking Group 1 as shown in the draft Suffolk County Sub-watersheds Plan.

Additional considerations for overland storm water runoff on site are warranted in light of a 2013 New York State Department of Environmental Conservation report and a Suffolk County Department of Health Services report in 2016 concerning potential groundwater impacts from vegetative organic waste (VOW) processing and storage. Several recommendations of the studies should be considered by the Town of Brookhaven:

- Stormwater runoff from areas up-gradient of mulch piles must be diverted to prevent pile contact
- Reduce stormwater contact with mulch using approaches such as using a breathable cover and/or strategically placing piles where the topography slopes away from the piles
- Mulch piles should be placed in a manner that minimizes ponding around the piles, minimizes the movement of precipitation through the piles, and provides a sufficient buffer to groundwater wells
- Stormwater produced on the site must be managed appropriately
- Reduce run-off infiltration to groundwater by placing mulch piles on impermeable surfaces or implementing a liner. Stormwater conveyance and detention facilities (e.g. basins) may be lined in order to prevent percolation of water laden with elevated dissolved organic carbon (DOC)
- Movement of organic matter from the surface of the pile and on the ground around the piles must be controlled
- Surface water and groundwater sampling programs should be put in place to assess the effectiveness of prevention measures

3. Regarding the overland storm water runoff that is to be directed to the 60 foot wide impoundment area along the eastern and southern property boundaries. The applicant should be encouraged to review the Suffolk County Planning Commission publication Managing Stormwater-Natural Vegetation and Green Methodologies and incorporate into the proposal, where practical, design elements contained therein.

4. The applicant proposes to take access via a created 60 foot wide access Right-Of-Way (ROW) westerly to Grucci Lane, a 100 foot wide public ROW. Access rights over lands to the west should be secured by legal instruments acceptable to the Brookhaven Town Attorney before any final approval is granted to the proposed wood and leaf mulch outdoor storage facility by the Town of Brookhaven Planning Board.

5. No trip generation or traffic study information was provided in referral materials to the Suffolk County Planning Commission. The applicant should be encouraged to begin/continue dialogue with the Suffolk County Department of Public Works regarding impacts to the intersection of Grucci Lane with Horseblock Road (CR 16) resulting from employee motor vehicle and truck traffic coinciding with leaf and wood mulch storage and processing.

6. Any part of required parking that may be land-banked on site should take into consideration the Suffolk County Planning Commission publication Managing Stormwater-Natural Vegetation and Green Methodologies and incorporate into the parking land-banked area, where practical, design elements contained therein.

7. Review for a non-jurisdiction determination by the Suffolk County Department of Health Services is warranted for the proposed treatment of sanitary wastewater and the applicant should be directed to begin/continue dialogue with the Suffolk County Department of Health Services. It is noted that the applicant contends that permanent bathroom facilities would not be required on site and that a porta-potty for employees will be on site.

8. With respect to the applicants contention that “there is no need for onsite lighting. There will be no signage. There is no need for any fencing”, the applicant should review the Planning Commission guidelines particularly related to public safety and incorporate into the proposal, where practical, design elements contained therein. Lighting and signage to prevent trespassing and illegal dumping may be warranted. In addition, the Site Plan referred by the Brookhaven Town Planning Board (prepared by Kempey Engineering; last revised 11/21/19) indicates that “a solid tongue-and-grove fence with no gaps between slats [sic] or higher quality barrier...the required solid tongue-and-grove fence has been provided adjacent to the natural buffers.” This statement regarding the placement of the fence should be made as a condition of final approval for the site plan/special permit with respect to the LI Compost wood and leaf mulch outdoor storage yard.



